

Claims 37, 39-42, 45, 48-49, 51-52, 70, and 87-88 have been amended to even more particularly point out and distinctly claim the claimed subject matter. Claims 50, 54, 83 and 84 have been canceled, and new claims 89-92 have been added. Claims 37-49, 51-53, 55-74, 76-79, 81-82 and 85-92 are now pending.

Support for the amendments may be found in the claims as originally filed and throughout the Specification, for example, at page 4, lines 17-20; page 6, lines 10-13, page 7, line 26 to page 8, line 5; page 16, lines 23-26; page 18, lines 12-18; page 20, lines 8-10; page 29, lines 11-14; page 84, line 19 to page 85, line 9; page 85, lines 15-17; and in the Examples. No new matter is added.

A. The 35 U.S.C. § 112 Second Paragraph Rejection

The Examiner rejected claims 52-55, 70 and 81-82 under 35 U.S.C. § 112, second paragraph, for various reasons. Applicants traverse this rejection for the following reasons.

Amended claim 52 now depends from claim 51, in which antecedent basis for “said carboxylic salt” may be found. Amended claims 52, 70 and 81 do not recite pentadiones. Amended claim 70 does not recite sodium hydroxide.

In view of the above arguments, Applicants respectfully submit that the § 112, second paragraph rejection should be withdrawn. Favorable reconsideration is requested.

B. The 35 U.S.C. § 102 and § 103 Rejections

The Examiner rejected various claims under 35 U.S.C. § 102 and/or § 103 over Ely, Morway, Lummus and Subramanian. Applicants traverse these rejections for the following reasons.

In order to support an anticipation rejection under 35 U.S.C. § 102(e), each and

every element of the rejected claim must be found in the cited art, and the claimed invention “must be described in . . . a patent granted on an application for patent by another filed in the United States *before the invention by the applicant for patent*” (see 35 U.S.C. Section 102)(emphasis added). In the present case, Applicants first and second provisional applications were filed prior to the July 29, 1999 filing date of Subramanian and provides support for the elements of the rejected claims, as described in Applicants Preliminary Amendment filed May 11, 2001. Applicants’ claims that were on file prior to the present amendment are therefore fully supported by the disclosure of these first two provisional applications. However, even assuming *arguendo* that only certain of the recited elements were supported by the first two provisional applications, Subramanian would nonetheless fail to *anticipate each and every limitation* of the claims as they existed prior to this amendment. Thus, for this reason alone, the 35 U.S.C. § 102(e) rejection over Subramanian should be withdrawn

Notwithstanding the above, Applicants have canceled or amended the rejected claims in order to facilitate prosecution and reduce prosecution costs. For example, amended claim 37 (and claims dependent therefrom) include the limitations of previously objected to claim 42. Amended claim 45 is in the form of an independent claim including the limitations of previously objected to dependent claim 45. Amended claim 48 is in the form of an independent claim including the limitations of previously objected to dependent claim 48 and recites combining the organic base fluid with a solid reaction product to provide antecedent basis for the term “solid reaction product.” Amended claim 49 is in the form of an independent claim including the limitations of previously objected to dependent claim 50, with the exception that it does not recite the term “solid reaction product”. Amended claim 51 is in the form of an independent claim including the limitations of previously objected to dependent claim 51. Claims 83-84 have been cancelled, amended claim 87 recites at least one MSMA-based compound, a limitation not found in any of the cited references, and amended claim 88 depends from previously allowable claim 86.

In view of the foregoing, Applicants respectfully submit that the 35 U.S.C. § 102 and § 103 rejections should be withdrawn. Favorable reconsideration is requested.

C. New Claims 89-92

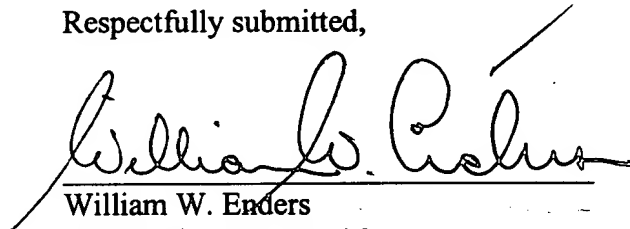
New claims 89-92 depend from independent claims 37, 56, 79 and 85 respectively. Each of these independent claims have been shown above to be allowable, and therefore new claims 89-92 are allowable as well.

D. Conclusion

Applicants submit that claims 37-49, 51-53, 55-74, 76-79, 81-82, 85-92 are in condition for allowance. Reconsideration of the application and claims is courteously solicited.

The examiner is invited to contact the undersigned at the phone number indicated below with any questions or comments, or to otherwise facilitate expeditious and compact prosecution of the application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William W. Enders", is written over a horizontal line.

William W. Enders  
Registration No. 41,735  
Attorney for Applicants

O'KEEFE, EGAN & PETERMAN  
1101 Capital of Texas Highway South  
Building C, Suite 200  
Austin, Texas 78746  
(512) 347-1611  
FAX: (512) 347-1615

AMENDMENTS TO THE CLAIMS  
SN 09/534,655

37. (Amended) A method of forming a gelled organic-based fluid, comprising combining the following components to form said gelled organic fluid:

at least one organic base fluid, at least one carboxylic acid, at least one MSMA-based compound, and at least one first metal source compound [;

wherein said carboxylic acid comprises at least one multi-functional carboxylic acid].

39. (Amended) The method of claim 37, wherein said combining comprises combining said organic base fluid and said MSMA-based compound with a solid reaction product of said carboxylic acid and said first metal source compound to form said gelled organic fluid.

40. (Amended) The method of claim [37] 42, wherein said multi-functional carboxylic acid comprises a dicarboxylic acid.

41. (Amended) The method of claim [37] 42, wherein said multi-functional carboxylic acid comprises a tricarboxylic acid.

42. (Amended) The method of claim [39] 37, wherein said carboxylic acid comprises at least one multi-functional carboxylic acid [combining further comprises combining at least one MSMA-based compound with said other components].

45. (Amended) [The method of claim 39,] A method of forming a gelled organic-based fluid, comprising combining the following components to form said gelled organic fluid:

at least one organic base fluid, at least one carboxylic acid, and at least one first metal source compound;

wherein said carboxylic acid comprises at least one multi-functional carboxylic acid;

wherein said combining comprises combining said organic base fluid with a solid reaction product of said carboxylic acid and said first metal source compound to form said gelled organic fluid; and

wherein said combining further comprises combining a second metal source compound with said organic base fluid and said solid reaction product.

48. (Amended) [The method of claim 37,] A method of forming a gelled organic-based fluid, comprising combining the following components to form said gelled organic fluid:

at least one organic base fluid, at least one carboxylic acid, and at least one first metal source compound;

wherein said carboxylic acid comprises at least one multi-functional carboxylic acid;

wherein said combining comprises combining said organic base fluid with a solid reaction product to form said gelled organic fluid; and

wherein said solid reaction product comprises a reaction product of said at least one carboxylic acid, said first metal source compound and a second metal source compound.

49. (Amended) A method of forming and using a gelled organic-based fluid, comprising:

combining at least one organic base fluid, at least one carboxylic acid, at least one first metal source compound, and at least one second metal source compound to form said gelled organic fluid; and

introducing said gelled organic fluid into a wellbore, pipeline interior or fluid processing facility;

wherein said first and second metal source compounds are different compounds;  
and

wherein said metal of said first metal source has a valence of +3; and wherein said metal of said second metal source has a valence of +3;

wherein said combining further comprises combining at least one MSMA-based compound with said organic base fluid, said first metal source and said second metal source compound to form said gelled organic fluid.

50. (Canceled)

51. (Amended) [The method of claim 49,] A method of forming and using a gelled organic-based fluid, comprising:

combining at least one organic base fluid, at least one carboxylic acid, at least one first metal source compound, and at least one second metal source compound to form said gelled organic-based fluid; and

introducing said gelled organic-based fluid into a wellbore, pipeline interior or fluid processing facility;

wherein said first and second metal source compounds are different compounds;

wherein said metal of said first metal source has a valence of +3; and wherein said metal of said second metal source has a valence of +3; and

wherein said first metal source compound comprises salt of carboxylic acid;  
wherein said second metal source compound comprises at least one of metal oxide, metal hydroxide, metal halide, metal alkoxide, metal sulfate or a mixture thereof; and wherein said metal of said first and second metal source compounds is aluminum, iron, or a mixture thereof.

52. (Amended) The method of claim [49] 51, wherein said carboxylic acid comprises at least one fatty acid having from about 6 to about 24 carbon atoms; wherein said carboxylic acid salt comprises aluminum octoate, aluminum stearate, iron octoate, [aluminum 2,4-pentadione, iron 2,4-pentadione,] or a mixture thereof; and wherein said second metal source compound comprises at least one of aluminum oxide, iron hydroxide, aluminum hydroxide, aluminum isopropoxide, aluminum chloride, ferric ammonium sulfate, or a mixture thereof.

54. (Canceled)

70. (Amended) The method of claim 68, wherein said carboxylic acid comprises at least one fatty acid having from about 6 to about 24 carbon atoms; wherein said carboxylic acid salt comprises aluminum octoate, aluminum stearate, iron octoate, [aluminum 2,4-pentadione, iron 2,4-pentadione,] or a mixture thereof; and wherein said second metal source compound comprises at least one of aluminum oxide, iron hydroxide, aluminum hydroxide, aluminum isopropoxide, aluminum chloride, [sodium hydroxide,] ferric ammonium sulfate, or a mixture thereof.

81. (Amended) The gelled organic fluid of claim 83 wherein said carboxylic acid comprises at least one fatty acid having from about 6 to about 24 carbon atoms; wherein said at least one first metal source compound comprises a carboxylic acid salt that is at least one of aluminum octoate, aluminum stearate, iron octoate, [aluminum 2,4-pentadione, iron 2,4-pentadione,] or a mixture thereof; and wherein said at least one second metal source compound comprises at least one of aluminum oxide, iron hydroxide, aluminum hydroxide, aluminum isopropoxide, aluminum chloride, ferric ammonium sulfate, or a mixture thereof.

83. (Canceled)

84. (Canceled)

87. (Amended) A method of forming a gelled organic-based fluid, comprising combining the following components to form said gelled organic fluid:



at least one organic base fluid, at least one MSMA-based compound, at least one carboxylic acid, at least one first metal source compound, and at least one second metal source compound;

wherein said first and second metal source compounds are different compounds.

88. (Amended) [A] The gelled organic-based fluid of claim 86, wherein said gelled organic-based fluid is formed from components comprising at least one organic base fluid, at least one carboxylic acid, at least one first metal source compound, and at least one second metal source compound; wherein said first and second metal source compounds are different compounds.